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AN UNEVEN PATH TOWARD GREATER TRADE LIBERALIZATION

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ABSTRACT

This paper presents a comprehensive but relatively brief historical survey of U.S. trade-policy over the last 75 years. It is aimed at individuals who are not already familiar with the concepts and terminology used in discussions of trade policy and the domestic and international institutional framework within which U.S. trade policies are formulated and implemented. Particular attention is devoted to exploring the underlying economic and political conditions that have shaped U.S. trade policies over the period.

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1. Introduction

Since 1934 when the Congress transferred much of its tariff-setting powers to the president, there has been a remarkable decline in the average level of U.S. tariffs on dutiable imports. This average duty was 51.2 percent in 1931 just after the Smoot-Hawley Tariff Act of 1930, 26.3 percent in 1946 just prior to the first GATT round of multilateral trade negotiations, 12.2 percent in 1960 just before the Kennedy Round of trade negotiations, and 4.8 percent in 2004 during the Doha Round of negotiations.¹

What is not fully appreciated, however, is the extent to which this decline has been due not to tariff-reducing negotiations among nations but simply to the tariff-reducing effects of rising import prices in conjunction with specific or compound duties, namely, import duties that are fixed in terms of their dollar amounts per unit of imports or that are a mix of specific and ad valorem duties. For example, Irwin (1996) estimates that 70 percent of the 99 percent decline in the average tariff rate on dutiable imports between 1932 and 1954 was due to a rise in import prices (tariff acts constant) and only 29 percent was attributable to tariff acts alone (import price constant). The tariff reduction over the entire period that is not attributable to changes in import prices is still very impressive, however. Moreover, there has been a significant decline in protection from nontariff measures such as quantitative import restrictions.

This chapter describes various U.S. legislative and executive branch actions over the last 75 years that have produced the reduction in protectionism and explores the underlying economic and political conditions that have influenced these events.

2. Trade Liberalization under the Reciprocal Trade Agreements Program, 1934-

¹ Irwin, 2007, Table 2.

1962

2.1. The Early Years, 1934-1945

With Cordell Hull, the Secretary of State in the Roosevelt Administration, taking the leadership role in advocating tariff reductions and the Democrats gaining control of the House and Senate, the Congress passed the Trade Agreements Act of 1934. This legislation gave the president the power to reduce tariffs by 50 percent over a three year period through reciprocal negotiations with other countries. A major argument used in seeking passage of this measure was that it would provide an outlet for the disposition of American surplus products, especially agricultural products. The votes in favor of the measure were 274 to 111 in the House and 57 to 33 in the Senate. Sixteen trade agreements with seventeen countries (Belgium and Luxembourg representing one agreement) were concluded between 1934 and 1937.

The Trade Agreements Program was extended in 1937, 1940 and again in 1943 without any new tariff-reducing authority. The arguments favoring extension gradually shifted from being based mainly on domestic policy objectives to being based on foreign policy goals. In 1937 Secretary Hull argued that not only was the program needed to alleviate depression conditions but to contribute to world peace in a period of increasing tensions in international relations. By 1940 President Roosevelt argued in his State of the Union message that the Trade Agreements Act was “an indispensable part of the foundations for any stable and durable world peace.”² In 1943 Administration officials linked the extension of the program to both wartime and postwar planning. However, concern on the part of Republicans that the Congress have the opportunity of terminate

² Quoted from Wilkinson, p. 16.

the program at the end of the War resulted in its renewal for two rather than the usual three years.

In March of 1945 President Roosevelt delivered a message to Congress urging that the Trade Agreements Program be extended for another three years and that further tariff-cutting authority be included in the legislation. He argued that the continuation of the program was needed “if the economic foundations of the peace are to be as secure as the political foundations,”³ He also pointed out that much of the tariff-cutting authority granted in the 1934 act had been used up and another 50 percent was needed to carry out the program effectively. The renewal bill passed in the House by a vote of 258 to 153 and in the Senate by 53 to 21.

2.2. The Ill-fated International Trade Organization

In July 1944 delegates from 44 of the Allied Nations met at Bretton Woods, New Hampshire and established the International Monetary Fund to maintain a stable international monetary system and the International Bank for Reconstruction and Development to promote economic growth in both the war-torn developed countries and developing countries. It was always envisioned that these institutions would be supplemented by an international trade organization aimed at promoting a more open trading system, but this objective proved more difficult to achieve. In 1945 the United States invited its World War II allies to enter into negotiations to establish such an organization and by 1948 the Havana Charter for an international trade organization was completed. However, it was never implemented, mainly because of the opposition of the American business community. This group alleged that the elaborate and detailed rules

³ Quoted from Woolley and Peters.

on such matters as commercial policy, restrictive business practices, international commodity agreements, international investment, and dispute settlement procedures contained so many exceptions that most countries could comply with the Charter's rules without actually freeing trade from existing restrictions.⁴

2.3. The 1947 Round of Multilateral Trade Negotiations in Geneva

U.S. trade negotiators did not wait for an approval or disapproval decision by Congress on the International Trade Organization before launching new tariff-reducing negotiations. Instead, using their new tariff-reducing powers under the 1945 extension of the reciprocal Trade Agreements Program, they invited the world's major trading nations to participate in a multilateral round of tariff reductions held in Geneva, Switzerland in 1947. During these negotiations the United States agreed to a 21.1 percent cut in its average tariff level.⁵

The tariff-reducing procedure followed in the 1947 negotiations as well as in the four rounds that took place between 1949 and 1962, began with an exchange of offer and request lists. Offers of a tariff concession on a particular product were made to the trading partner that was the principal or important supplier of the product to the country. The request list covered those items for which the country sought tariff reductions from a trading partner where the partner was the principal supplier of the item to the country. The bilateral negotiations that followed the exchange of offer and request lists aimed at utilizing each country's tariff-cutting authority to the maximum extent, subject to the

⁴ See Diebold, 1952, for a detailed analysis of why the ITO failed.

⁵ Lavergue, 1981.

limits imposed by their respective national governments and the constraint that each country regards the set of final concessions as being balanced.

2.4. The General Agreement on Tariffs and Trade (GATT)

A unique feature of the results of the Geneva 1947 Round was that it consisted not only of schedules of tariff reductions but a set of international rules covering government behavior in international trade, namely, the General Agreement on Tariffs and Trade. The rules are essentially those set forth in the commercial policy section of the Havana Charter. The two key ones are the most-favored-nation and national treatment rules. The most-favored-nation principle specifies that the lowest tariff rate imposed by a GATT member on imports of a product from another member must be the rate that this latter country charges on similar imports from any other GATT member.⁶ An important exception to this principle is made, however, with respect to free trade areas and customs unions. National treatment means that a country's internal taxes, rules, and regulations shall not be applied in a manner that affords protection to domestic producers. The initial membership of the GATT was 23 countries with the Secretariat based in Geneva.

Two other GATT rules that have played important roles in U.S. trade history relate to antidumping and countervailing duties. Dumping occurs when foreign exporters either charge less on the products they sell abroad than they do at home or sell their products abroad for less than their cost of production. If these actions⁷ cause or threaten to cause material injury to an established domestic industry, the importing country can levy an antidumping duty equal to the margin of dumping. Countervailing duties are

⁶ The United State adopted the most-favored-nation principle in 1923.

⁷ Anti-dumping legislation was first introduced into U.S. law in 1916.

permitted to offset subsidies by foreign countries on the production or export of their goods.⁸ Other notable provisions of the GATT are the general elimination of quantitative restrictions and the escape or safeguard clause which permits temporary increases in protection on any product being imported in such increased quantities as to cause or threaten to cause serious injury to domestic producers.

2.5. Shifts in the Views of Republicans and Democrats toward Trade Liberalization

When the Republicans took control of both Houses of Congress in the election of 1946, long time Republican opponents of the Trade Agreements Program hoped to bring an end to the program. However, in the early post-World War II period there were important changes in the views of both Republicans and Democrats toward trade policy. The Republican business community realized that the postwar economic dominance of the United States in most international markets meant it was in their interest to support a policy of trade liberalization. Moreover, a greater number of Republicans supported the view that trade liberalization played an important role in promoting world peace. Thus, the Truman Administration was able to deflect efforts to prevent trade liberalizing negotiations in Geneva by issuing an Executive Order in 1947 that required the insertion of an escape clause in all trade agreements permitting the United States to modify trade concessions that caused or threatened to cause serious injury to domestic producers. Whether serious injury or the threat thereof exists is determined by the U.S. International Trade Commission (called the U.S. Tariff Commission until its name was changed in 1974), a six persons government agency whose members are nominated by the president

⁸ U.S. countervailing law can be traced back to the Tariff Act of 1897.

and approved the Senate. The president need not implement an affirmative decision of the Commission if he or she believes this would not be in the national interest.

The Truman Administration was also able to prevent the Trade Agreements Program from expiring in 1948 by agreeing to a one-year extension that included a so-called “peril point” provision. Under this provision the U.S. International Trade Commission held hearings aimed at determining the extent to which tariff rates proposed for possible reduction in trade negotiations could be lowered without threatening injury to domestic producers. The House version of the bill also included a provision stipulating that Congress would have the right to adopt a concurrent resolution of disapproval of any trade agreement with duty concessions outside the limits set by the Commission. However, this provision was dropped from the final version of the bill.

In 1949 the Democrats again obtained majorities in both the House and Senate and promptly passed the Trade Agreements Extension Act of 1949 which repealed the Act of 1948 with its peril point provision and extended the program for three years from its 1948 expiration date. In 1949 the Administration used this authority to undertake a second round of tariff-reducing multilateral negotiations within the GATT framework. The extent of liberalization was modest. The average level of U.S. duties declined by only 1.9 percentage points. A third round of multilateral negotiations followed shortly thereafter. These negotiations, which were held in Torquay, England, beginning in September, 1950, also produced only a modest reduction in duties. Average U.S. duties declined only 3.0 percentage points.

By 1951 the views of Democrats on both the peril point and escape clauses had changed significantly. Enough Democrats supported these protectionist provisions that

they were included in the bill that passed and extended the program for another two years. The fact that most of the Democrats voting in favor of these provisions came from the South or from Border States indicates that increased international competition in labor-intensive products such as textiles and apparel was a factor in this policy shift. U.S. trade negotiators had also learned that the existence of these provisions did not have dire consequences that many had feared.

2.6. The Eisenhower Years

With the election in 1952 of a Republican president and Republican majorities in both the House and Senate, one might have expected a rapid and extensive shift in U.S. trade policy toward protectionism. Such was not the case, however. President Eisenhower proposed a one-year extension of the Trade Agreements Act pending a thorough review of U.S. foreign economic policy by a commission composed of members of both houses of Congress and private citizens. This action seemed to undercut the attempt by some Republicans to pass a highly protectionist bill and the program was extended for another year with only modest new protectionist features.

A majority of the members of the Randall commission established under the 1953 Extension Act favored a lowering of existing trade barriers through multilateral trade negotiations. However, the key congressional members of the commission supported tariff changes that would equalize the price differences in goods produced in the United States and in other countries. Consequently, a deadlock quickly developed in Congress when in 1954 the President Eisenhower requested a three-year extension of the Reciprocal Trade Agreements Act with new tariff-reducing authority. It was resolved by again passing a one-year extension without any new tariff-reducing authority.

As in 1949, a shift in 1954 in the control of Congress from Republicans to Democrats was critical for achieving further trade liberalization. In 1955 President Eisenhower was able to obtain a three year extension with an additional 15 percent duty-cutting authority. However, the need to satisfy the increasing proportion of Democrats in both the House and Senate who supported protectionist policies meant that the final bill contained provisions making it easier to gain import protection under the escape clause provision and permitting the imposition of import quotas in industries where imports were threatening an industry deemed essential to national security. Import quotas on oil were introduced in 1959 under this provision. The Eisenhower Administration also pressured the Japanese into accepting voluntary restraints on their exports of cotton textiles.

In 1955 the United States obtained a GATT waiver covering agricultural products that effectively removed all trade in these goods from GATT discipline. Article XI:2 of the original document already permitted countries to introduce import restrictions on agricultural and fishery products necessary for the enforcement of governmental measures that operate to restrict the production or marketing of the like domestic product. The 1955 waiver allows the U.S. to apply import restrictions without regard to whether measures are in place restricting the production or marketing of such products. Other countries followed the U.S. in utilizing this waiver.

President Eisenhower was again successful in 1958 in extending the Trade Agreements Program, this time for 4 years with an additional 20 percent tariff-reducing authority. The main concession to protectionist groups was a provision permitting

Congress to override presidential decisions on Tariff Commission escape clause decisions by a two-thirds majority vote in both the House and Senate.

The Eisenhower Administration used the tariff-reducing authority it obtained in the 1955 and 1958 extensions of the reciprocal Trade Agreements program to enter into the fourth (1955-56) and fifth (1961-62) GATT rounds of multilateral trade negotiations. Both took place in Geneva and like the second and third negotiating round produced only modest average duty reduction. The average level of U.S. duties declined by only 3.5 percentage points in the fourth round of negotiations and by 2.4 percentage points in the fifth round.

3. 1962-94, Significant Multilateral Reductions in Tariffs and Nontariff Trade

Barriers but with Selective Protectionism

3.1. The Trade Expansion Act of 1962 and the Kennedy Round of Trade

Negotiations, 1963-67

The Trade Expansion Act of 1962 and subsequent Kennedy Round of trade negotiations begins a new period of stand-alone trade-liberalizing multilateral negotiations that continues to the present time. Under the Trade Expansion Act the President was given the power to enter into Trade Agreements with other countries before July 1, 1967 that reduced U.S. duties by up to 50 percent of their 1962 levels. In addition, tariff levels of 5 percent or less could be cut by up to 100 percent.

The Kennedy Administration pressed the Congress for this significant new tariff-cutting authority for both economic and foreign policy reasons. Economic relations with

the European Economic Community (EC)⁹, which was formed in 1957, played an important role in the decision to seek this extensive tariff-cutting authority. Leaders in both U.S. political parties favored the formation of the EC because it would greatly reduce the possibility of future military conflicts among its members. Trade officials recognized, however, that the elimination of duties among its members meant that some U.S. exports to EC members would be displaced by similar products produced by other EC members since these products would no longer be subject to import duties. Negotiating a general decrease in levels of protection would, they argued, reduce the margin of preference for these members. The benefits of tariff-liberalizing negotiations in strengthening political ties within the Atlantic Community and in preventing Communist economic penetration were also stressed.

Some concessions to protectionist interests were made to help gain the new negotiating authority, however. In 1962, for example, the United States became a signatory to the Long-Term Agreement regarding Trade in Cotton Textiles that established import quotas for this product. President Kennedy also approved affirmative safeguard decisions by the International Trade Commission on glass and carpets. The 1962 Act eliminated the peril point clause but the Tariff Commission was charged with advising the President as to the probable economics effects of tariff reductions. In addition to including a safeguard clause, the Act for the first time also included adjustment assistance to domestic firms and workers injured by increased imports. Qualifying firms could receive technical and financial assistance, while workers who qualified could receive extended unemployment payments, retraining allowances and

⁹ The six members were Belgium, France, Germany, Holland, Italy and Luxembourg.,

relocation allowances. Shifting the administration of trade negotiation away from the State Department to a Special Trade Representative located in the Executive Offices of the President was also regarded as a concession to protectionist interests.

The Act easily passed in both the House and Senate. The House vote was 299 in favor of passage and 128 against, while the Senate vote was 78 yeas and 8 nays.

At the outset of the Kennedy Round negotiations in 1962 there was general agreement among the major participants that that the item by item approach of earlier negotiating rounds be replaced by a formula approach to cutting tariffs. As the number of countries participating in GATT-sponsored trade negotiations increased,¹⁰ item by item negotiations had become increasingly cumbersome and time-consuming. The fact that the volume of imports for which one country served as the principal supplier to another country need not match the volume of trade for which the latter country was the principal supplier to the first country coupled with countries' objective of achieving an overall balance of concessions from other countries also limited the extent of the overall tariff reduction possible. The United States proposed that all tariffs be reduced by 50 percent with a bare minimum of exceptions. The developing countries were not expected to provide reciprocity, however. The EC proposed a formula that would reduce high tariff rates by a greater percentage than low rates. In particular, the EC proposed that duties on manufactured goods be reduced by 50 percent of the difference between their existing levels and 10 percent. Duties on semi-manufactures and raw materials were to be cut by 50 percent of the difference between the existing rate and 5 percent and zero, respectively. Agricultural products were not covered by this proposal. The United States

¹⁰ Sixty-six countries took part in the Kennedy Round negotiations.

strongly opposed the EC tariff-cutting rule on the grounds that it would only yield an average reduction for the main trading nations of about 15 percent and also require a substantially greater average cut for the United States than the EC.

After intense negotiations the EC finally accepted the U.S. position that the cuts be linear and uniform but with the proviso that special rules apply where there are significant disparities in tariff levels. However, such special rules were never agreed on by the major trading nations and the EC ended up by simply excluding from linear cuts a number of items where it believed significant disparities in tariff rates existed. Fortunately, the number was not sufficiently large to unravel the entire tariff-cutting exercise. The average reduction in dutiable imports of nonagricultural products for the U.S., EC, United Kingdom, and Japan was in the range of 36 to 39 percent

Trade negotiations covering agricultural products proved even more difficult in the Kennedy Round than those relating to manufactured goods. The main concern of the United States was that the implementation of a common agricultural policy by the EC would result in a significant reduction of U.S. agricultural exports to Europe. The initial offers of the EC confirmed this conclusion and a stalemate on agricultural negotiations ensued that lasted until the end of the Kennedy Round. Bilateral negotiations between the U.S. and EC finally broke the deadlock with each side backing off their initial positions. The average tariff reduction on dutiable agricultural imports of the major industrial countries was 20 percent or considerably less than in nonagricultural sectors.

3.2. Tariff Preferences for Developing Countries

A key proposal of the first United Nations Conference on Trade and Development held in 1964 during the Kennedy Round was that the developed countries should grant

preferential tariff treatment to imports of manufactured and semis-manufactured goods originating in developing countries. The United States was somewhat reluctant to accept such a recommendation due to its longstanding opposition to discriminatory trading arrangements but soon followed other industrial countries in providing zero-duty treatment on imports of most manufactured goods from developing countries. Authority for doing so has since been regularly included in U.S. trade legislation. Initially it was necessary to obtain a GATT waiver to grant such preferences but during the Tokyo Round the so-called “enabling clause” was included in the GATT permitting members to grant such preferences routinely.

3.3. Particular Protectionism of the 1970 and 1980s

Beginning in the late 1960s there was a rapid rise in import penetration ratios in many U.S. manufacturing sectors.¹¹ The result was a wave of protectionism that restricted imports from various countries on steel, textiles and apparel, footwear, color television sets, and automobiles at various times during the 1970s and 1980s. In 1970 a bill sponsored by Wilbur Mills, the Chairman of the Ways and Means Committee that would have imposed import quotas on a wide range of manufactured goods passed in the House. The protectionism of this period was driven in part by a shift in the policy position of organized labor from supporting trade liberalization to advocating import restrictions.

3.4. The Trade Act of 1974 and the Tokyo Round of Trade Negotiations, 1973-79

A widely held view among business and labor groups in the early 1970s was that the increased competitiveness of foreign producers was due in no small measure to the

¹¹ See U.S.Congress, Committee on Ways and Means, 1973.

use of unfair nontariff trade measures on their part. It was this view that helped the Nixon Administration secure passage of the Trade Act of 1974 which directs the President to undertake multilateral negotiations aimed at harmonizing, reducing or eliminating nontariff barriers to international trade as well as at reducing tariffs by up to 60 percent. However, the 1974 Act for the first time requires that any agreement reached with other countries must be approved by a majority vote in both the House and Senate. Under this so-called “fast-track” procedure or, as it is now called, trade promotion authority, no amendments to the agreement submitted by the President are permitted by the Congress. Without this provision other countries are reluctant to agree on a negotiating package for fear that the Congress will subsequently withdraw some of the U.S. trade concessions involved in the agreement.

Another important provision of the 1974 Trade Act, namely, Section 301, permits the President to take retaliatory actions against a foreign country that “maintains unjustifiable, or unreasonable” tariffs or import restrictions, engages in “discriminatory or other acts which are unjustifiable or unreasonable,” or provides “subsidies . . . which have the effect of substantially reducing the sales of the competitive United States product.”

The Trade Act of 1974 passed in the House by a vote of 272 to 140 and in the Senate by a vote of 72 to 4.

In the Tokyo Round of trade negotiations that followed passage of the 1974 Trade Act, the United States negotiated a series of detailed codes covering nontariff measures that set forth permissible and non-permissible GATT-consistent behavior. The main subjects covered were subsidies and countervailing duties, antidumping practices,

government procurement policies, valuation and licensing practices, and technical barriers to trade (standards). Signing the codes was made voluntary on the part of the participants in the negotiations.

The tariff-cutting formula for industrial products accepted by all participants in the Tokyo Round negotiations was proposed by the Swiss, namely,

$$(1) Z = AX / (A + X),$$

where Z is the new tariff rate, A is a constant and X is the current tariff rate. The constant was set at 14 for the U.S. and 16 for the EC. Thus, a U.S. duty of 20 percent was reduced to $14 \times 20 / (14 + 20) = 8.23$ percent. The United States was somewhat constrained by this formula in that it could not cut duties more than 60 percent, but it was able to raise its average rate of reduction to the levels achieved by other industrial countries by utilizing its statutory power to reduce duties 5 percent and below by up to 100 percent. Taking into account the various exceptions to applying the Swiss formula, the average reduction in tariffs on industrial product in the Tokyo Round was about 35 percent for both the U.S. and EC.¹²

As in the Kennedy Round, reaching an agreement with the EC covering agricultural products proved to be the most difficult part of the negotiations. An impasse between the U.S. and the EC over agriculture was not broken until mid-1977 when the two trading powers agreed to separate agricultural negotiations from other matters and to engage in bilateral negotiations. The main concession by the United States was to increase the import quota on cheese, while the main concession by the EC was to increase the import quota for high quality beef.

¹² Winham, 267. The EC consisted of nine countries by the end of the Tokyo Round with Denmark, Ireland, and the United Kingdom becoming members in 1972.

The various codes as well as the tariff concessions were implemented by the U.S. in the Trade Act of 1979. This Act also extended “fast-track” authority for another eight years.

3.5. The Uruguay Round of Trade Negotiations, 1986-93

The most successful post-World War II multilateral trade negotiation as measured by the depth and scope of liberalization was the Uruguay Round (1986-93).¹³ Three new subjects not covered in previous negotiating rounds were introduced; namely, trade in services, trade-related intellectual property rights, and trade-related aspects of investment measures. In addition, a special effort was made that brought agriculture and textiles/apparel under GATT discipline. The negotiations also covered such traditional topics as tariff liberalization, subsidies, dumping, government procurement policy, technical barriers to trade, dispute settlement and institutional reform.¹⁴

An important feature of the framework agreement negotiated for services is that it covers not only cross-border trade in services but services supplied by foreign firms within a country to consumers in that country and services supplied by domestic firms to nationals of other countries who are visiting the country. The General Agreement on Trade in Services (GATS) commits WTO signatories to a set of general principles that includes most-favored-nation treatment, transparency with regard to domestic laws affecting trade in services, and the progressive liberalization of traded services.

In fashioning policies covering intellectual property, namely, creations of the mind such as inventions, literary and artistic works, and symbols, names, images, and designs used in commerce, society must balance two output-creating forces. One is the

¹³ See Preeg, 1995, for a comprehensive analysis of the Uruguay Round.

¹⁴ See Baldwin, 1995, for an economic evaluation of the Uruguay Round Agreements.

output gains that come about from distributing an existing body of knowledge as widely as possible. The other is the output gains that arise because inventors and other creators of intellectual property are granted temporary monopolies that prevent others from copying their intellectual creations before they have had a chance to reap the monetary gains that make their creative efforts worthwhile. The Uruguay Round agreement on the trade-related aspects of intellectual property attempted to overcome some of the drawbacks of the existing system. For example, all countries are now required to provide copyright, trademark, and patent protection on goods and services for a specified number of years. However, developing countries and the least developed countries were given extra time to implement this requirement. In addition, countries are required to establish civil judicial procedures whereby individuals and firms can seek to enforce their intellectual property rights. Criminal procedures must also be put in place to deal with willful trademark counterfeiting or copyright piracy on a commercial scale. In a notable ruling in 2009, a WTO dispute-settlement panel ruled that China violated WTO rules by barring copyright protection for movies, music, and books that have not been approved for publication or distribution in China.

GATT dispute settlement procedures were notoriously weak prior to the Uruguay Round. For example, the losing party in the report of a GATT disputes-settlement panel could block the adoption of the panel's report. However, as a result of the Uruguay Round negotiations, formation of panels and adoption of their reports are now all automatic.

One of the biggest disappointments with the codes approach utilized in the Tokyo Round was the failure of many countries to sign some of the key agreements. In an effort

to curtail the resultant free-riding and to bring together existing and new trading rules, the Final Act of the Uruguay Round establishes a new international organization, the World Trade Organization (WTO), encompassing the General Agreement on Tariffs and Trade, the results of past liberalization efforts, and all the results of the Uruguay Round.

Members are required to accept all its provisions, with the exception of the so-called Plurilateral Trade Agreements consisting of the agreement on government procurement, the agreement on civil aviation, the international dairy arrangement and the arrangement regarding bovine meat.

As in previous negotiating rounds, differences between the U.S. and EC¹⁵ made reaching agreement covering agricultural products especially difficult. However, bilateral negotiations held in Washington in the waning days of the Bush Administration formed the basis of the final agreement in agriculture. In restoring GATT discipline to this sector, nontariff barriers such as quotas, variable levies, and voluntary export restraints were converted to tariffs and these tariffs then reduced. Internal support measures and export subsidies were also reduced.

The negotiations on tariff reductions in the industrial sector went surprisingly smoothly. A request-offer format between principal supplying countries for individual products was followed with the objective of achieving a one-third reduction target. In addition, there were zero for zero duty reductions in some sectors by the major developed countries (Canada, the EU, Japan, and the U.S.). The end result was that industrial tariffs were reduced by more than one-third.

3.6. Omnibus Trade and Competitiveness Act of 1988

¹⁵ The European Community consisted of 12 countries at the outset of the Uruguay Round with Greece joining in 1981 and Spain and Portugal joining in 1986.

This act not only set forth the principal negotiating objectives of the United States with respect to such traditional subjects as unfair trade practices, safeguards, agriculture, and developing countries but new negotiating topics such as trade in services, intellectual property rights, worker rights, foreign direct investment and dispute settlement. In doing so, it granted the President an additional 50 percent duty-reduction authority and extended fast-track authority another five years. This authority expired in 1994 after Congress had extended it for one year in order to approve the Uruguay Round agreements. An effort in 1998 to pass fast-track authority was defeated in the House by a vote of 180 to 243 with only 29 Democrats voting in the affirmative.

The 1988 Trade and Competitiveness Act also increased the authority of the U.S. Trade Representative to take action under Section 301 against unfair trade practices of foreign countries in addition to spelling out in more detail the nature of these practices.

4. The Post-Uruguay Round Period: Waning Support for Multilateral Trade

Liberalization

4.1. The Trade Act of 2002

In addition to renewing and expanding the trade adjustment program this legislation again provided the president with trade promotion authority. The vote in the House was 215 in favor of passage and 212 against. Twenty-five Democrats voted in the affirmative and 183 voted in the negative.¹⁶ House Republicans favored passage by 190 to 27. In the Senate the bill passed 64 to 24 with 20 Democrats voting in the affirmative and 29 in the negative. Senate Republicans favored passage by 42 to 5.

¹⁶ Two Independents also voted against passage of the bill.

This new fast-track authority expired in June 2007. However, during this second period of fast-track authority Congress enacted implementing legislation for the United States-Chile Free Trade Agreement, the United States-Singapore Free Trade Agreement, the United States-Australian Free Trade Agreement, the United States-Morocco Free Trade Agreement, the Dominican Republic-Central America-United States Free Trade Agreement, the United States-Bahrain Free Trade Agreement, the United States-Oman Free Trade Agreement and the United States-Peru Free Trade Agreement. The United States has signed free trade agreements with Columbia, South Korea, and Panama but Congress has yet to implement these agreements.

The United States had long opposed regional trade agreements both on the grounds that the resulting discrimination among countries had an unfavorable effect on international political stability and because of the uncertain economic welfare effects of such agreements. However, this policy changed during the Uruguay Round when the decision was made to pursue U.S. trade policy objective not only through multilateral negotiations and unilateral Section 301-type policies but also through regional and bilateral trade agreements.

4.2. The Doha Round

The ninth round of multilateral trade negotiations under GATT/WTO sponsorship was scheduled to begin in 1999 in Seattle and be known as the Millennium Round. However, objections by the developing countries over how the agricultural negotiations were being handled as well as over the efforts of the developed countries to include such issues as competition and investment policies as part of the negotiations led to a

breakdown of the Ministerial Meeting and a postponement of the effort to start a new round. It was not until 2001 that a new round was successfully launched in Doha, Qatar.

An important concession made by the European Union (EU)¹⁷ that facilitated the start of these negotiations was a pledge to discontinue all export subsidies by 2013. The so-called Singapore issues (trade-related investment, competition policy, government procurement policy, and trade facilitation or procedures and controls governing the movement of goods across national borders) were included in the work program outlined in the Ministerial Declaration but negotiations on these topics was scheduled to begin only after “explicit consensus” by the participants. Discussion of these four issues first arose in the WTO at the 1996 Ministerial Meeting in Singapore in 1996. Most developed countries favored negotiations that would introduce antitrust policies into WTO rules, limit government controls on foreign direct investment, open up government purchasing to greater competition from private firms, and simplify customs procedures. Developing countries, on the other hand, generally wanted to retain government controls over these matters as a means of implementing the type of economic development they desired.

Among the long list of other topics included in the Doha Round work program were agriculture, services, market access for non-agricultural goods, intellectual property rights, antidumping and subsidy rules, regional trading rules, implementation-related issues, trade and the environment, and dispute settlement. Each topic included a

¹⁷ The European Union was formed in 1993 out of the institutions of the European Economic Community. Its founding members were Belgium, Germany, Italy, France, Luxembourg, and the Netherlands. As of 2009, its size had increased to 27 members..

statement that developing countries would receive special and differential treatment in the negotiations on the subject.

Progress in agreeing on the framework for negotiating on the issues covered by the Doha Ministerial statement proved difficult right from the outset.¹⁸ For example, at the Cancun Ministerial Meeting in 2003, which was called mainly to check on the progress made to date, it became apparent that the views of developed and developing countries were far apart on most issues. In particular, they could not agree on whether to include negotiations on competition policy, trade-related investment issues, government procurement policy, and trade facilitation. As a result, the meeting ended without a declaration setting forth a future agenda. It was not until July 2004 that WTO members agreed on a new work program for the Doha Round. Of the Singapore issues, only trade facilitation was included as an agenda item.

4.3. The July 2008 Collapse of the Doha Round Negotiations

By July of 2008 sufficient progress appeared to have been made in both the agricultural and non-agricultural negotiations to warrant another Ministerial Meeting that would resolve the remaining issues in these negotiations. Unfortunately, this meeting resulted in yet another failure. The key issue was a disagreement between the United States and India over the extent to which developing countries would be allowed to raise agricultural duties in response to import surges. India wished to have the unencumbered right to raise duties to the level it deemed necessary to protect the livelihood conditions of its farmers. The United States was concerned that this freedom of action would lead to tariffs being raised to levels above those agreed on in the Uruguay Round negotiations

¹⁸ See Baldwin, 2004, for an analysis of key issues facing negotiators in the Doha Round.

and thus would represent a step backward from the hard-won liberalization gains of that Round in agriculture.¹⁹

In an effort to break the resulting deadlock that arose at the July 2008 Ministerial over this issue, WTO Director-General, Pascal Lamy, proposed as a compromise that pre-Doha tariff rates could be exceeded only if the increase in imports in the current year was at least 40 percent greater than the average for the preceding three years. Susan Schwab, the U.S. Trade Representative, accepted this figure as a compromise point, but Kamal Nath, the Indian Commerce and Industry Minister summarily rejected it with the remark: “I reject everything. I cannot put the livelihoods of hundreds of millions of people at risk.”²⁰

The prospects for a successful conclusion of the Doha Round are uncertain, but world political leaders are urging the resumption of negotiations. For example, at their meeting in July, 2009 the G-8 industrial countries together with the major developing countries included in their final declaration that they “. . . are committed to an ambitious and balanced conclusion of the Doha Development Round in 2010.” They also directed their respective trade ministers to explore all possible avenues for direct engagement in the WTO and to meet prior to the G-20 Summit in Pittsburgh in September, 2009.

There has clearly been a shift in negotiating power within the WTO away from the developed countries and toward the developing countries as the latter countries’ share of world exports has increased. This share rose from 17 percent in 1990 to 27 percent in

¹⁹ See Baldwin, 2009, for a more detailed analysis of the cause of the 2008 collapse in the negotiations.

²⁰ See Blustein, 2008, 9. This is an especially valuable account of the December 2008 breakdown because Blustein interviewed key participants in the negotiations and had access to their notes on the meetings.

1999 and then to 38 percent by 2008.²¹ The rapid growth in trade and gross domestic product levels of India and China coupled with the accession of China to the WTO in November, 2001 has been crucial in this power shift. These countries as well as most other developing countries do not have a long tradition for the type of trade liberalizing policies that the developed countries have implemented within the WTO/GATT framework. They are wary of both the domestic economic adjustments these policies involve and the nature of the economic development they encourage. Consequently, the developing countries are using their increased influence in WTO trade negotiations not only to block market-opening negotiations on such matters as government procurement policy, foreign direct investment, and competition policy but to slow down the pace of traditional liberalization for agricultural goods and in the services sector. This shift in the power structure involved in trade negotiations coupled with the increased resistance to trade liberalization within the developed countries in recent years means that the prospects for significant trade liberalization in future years are not very favorable.

5. Some Conclusions about the Varying Forces Shaping U.S. Trade Policy

5.1 The President and the Congress

Since the Trade Agreements Act of 1934, there have been two main direct decision-making centers with respect of U.S. trade policy, namely, the president or Executive Branch and the U.S. Congress. These decision-making units have, in turn, been influenced by the policy positions and relative political power of the Democrat and Republican parties and individuals within these parties, the policy stances and relative political power of various other non-governmental organizations such as labor unions,

²¹ Based on trade data collected by the WTO.

business organizations, professional organizations and individuals within these groups, the policies of other governments, and perceptions about the views of the general public.

In making trade-policy decisions, the president and Congress are motivated by both U.S. domestic and foreign policy goals. Their decisions include such diverse actions as providing domestic producers with expanded export opportunities by reducing foreign trade barriers to preventing income declines for particular domestic groups by raising levels of protection on imports that compete with domestic production. Their decisions also affect the manner in which the country interacts with other countries politically, socially and militarily. Reducing U.S. trade barriers may, for example, strengthen the ability of foreign governments to resist regime changes that lead to governments hostile to the United States. Frequent exogenous changes in underlying economic and political conditions change the mix of trade policies appropriate for implementing the domestic and foreign policy goals of policymakers.

5.2. The Trade Agreements Program as a Means of Protecting Members of Congress while Making the President Responsive to Congressional Protectionist Wishes

The stage for a significant shift in U.S. trade policy in the early 1930s was set by the passage of the Smoot-Hawley Tariff Act of 1930 that raised import duties to heights that were unprecedented, by the worldwide collapse of economic activity, by the subsequent sharp increase in trade barriers against U.S. goods and by the capture by the Democrats of both houses of Congress as well as the presidency. Democrats traditionally preferred lower tariffs than the Republicans but, as Irwin argues²², the U.S. depression precluded a unilateral reduction in trade barriers. By tying reductions in U.S. tariffs to

²²Irwin, 1998.

reciprocal cuts in the import duties of other countries, Cordell Hull, the architect of U.S. trade policy in the Roosevelt Administration, was able to argue that the U.S. could dispose of its surpluses of goods without changing overall employment conditions significantly and without increasing import prices relative to export prices.²³ As Destler argues²⁴, by granting the president the power to reduce tariffs by up to a certain percentage for a given time period, members of Congress were able to protect themselves from the direct, one-sided pressures from protectionist interests but still have considerable power over the nature and extent of import protection.

5.3. The Importance of Foreign Policy Goals and of the Role of the President

Trade policy decisions have frequently been motivated by foreign policy objectives. This was particularly true during the early years of the Cold War. Presidents Truman, Eisenhower, and Kennedy all argued that a liberal U.S. trade policy by expanding the markets for foreign goods increases the ability of other countries to resist the spread of communism. One of the stated purposes of the Trade Act of 1962 is, for example, “to prevent Communist economic penetration.”

A historical survey of trade policy also reveals the importance of the president’s role in shaping the nature of trade policy. For example, at the outset of his Administration, President Eisenhower appeared to be only mildly supportive of the

²³ For a theoretical analysis of reciprocal trade agreements driven by terms-of-trade effects, see Bagwell and Staiger, 1999.

²⁴ Destler, Chp. 2.

Reciprocal Trade Agreements program and played a rather passive role in the one year extensions in 1953 and 1954. However, in 1955 the expression of strong support for the program by his Secretary of State, John Foster Dulles, and other cabinet officers played a significant role in obtaining a three-year extension. The vigorous efforts by President Kennedy and key members of his Administration to build support for the Trade Expansion Act both within the Congress and among the general public stand out as another example where the role of the president was important in shaping trade policy. A more recent illustration where the president played a crucial lobbying role in obtaining trade liberalizing legislation was the passage of the Trade Act of 2002 during the administration of President George Bush.

5.4. The Importance of the Political Division of Congress between Democrats and Republicans

For much of the period covered by this study, the most important determinant of trade policy has been the percentage division of members of Congress between the Republican and Democrat party. In the 1930s most Republicans still believed that U.S. manufacturing needed to be protected against foreign competitors who often engaged in unfair trade practices such as dumping and government subsidization. They, therefore, opposed tariff reductions even on a reciprocal basis. However, by the early post-World War years, Republican opposition to any trade liberalization had eased as the international demand for U.S. goods increased sharply. But they still were fearful that reductions in U.S. manufacturing tariffs would not infrequently result in import increases that seriously injured particular industries. They, therefore, sought escape clause and peril point provisions in U.S. trade legislation.

Democrats in the 1930s maintained that high tariffs raised the prices of goods to factory workers and farmers and reduced their living standards. But, by the 1950s they too were concerned about the possible injurious effects of tariff reductions and supported the inclusion of the escape clause in U.S. trade legislation. The import surges of the late 1960s further increased these concerns and by the 1970s a major force in the Democrat party, namely, U.S. labor unions, began to oppose trade liberalization. Non-union supporters of the Democrat party also became more concerned about the effects of trade liberalization in reducing the real wages of unskilled workers. Indeed, by the late 1990s votes in the House reveal that a majority of Democrats opposed such trade-liberalizing legislation as the North American Free Trade Agreement (1998), fast-track extension (1998) and the Trade Act of 2002. The failure by Congress to implement the free trade agreements negotiated by the Bush Administration with Columbia, Korea, and Panama indicates that support for trade liberalization is weak among members of both political parties.

The various restraining actions taken by Congress over the years such as imposing time limits on the trade-liberalizing powers of the president, introducing safeguard rules and the peril point clause into U.S. trade law, shifting the main trade policy powers from the States Department to the Office of U.S. Trade Representative, providing for unilateral actions against other countries under Section 301, and requiring trade agreements to be approved by Congress before taking effect can all be viewed as successive efforts by Congress to make the president more responsive to the wishes of Congress. None of these measures seem to have completely satisfied the Congress however, and now members seem reluctant even to grant trade promotion authority to the president.

Although President Obama has indicated his support for concluding the Doha Round in 2010, it is not clear that he has the political power to ensure congressional approval of an agreement acceptable to the developing countries.

References

- Baldwin, Robert E. 1965. "Tariff-cutting techniques in the Kennedy Round." In R.E. Baldwin et al, *Trade, Growth, and the Balance of Payments: Essays in Honor of Gottfried Haberler*. Chicago: Rand McNalley and Company.
- Baldwin, Robert E. 1979. "*The Multilateral Trade Negotiations: Toward Greater Liberalization?*" Special Analysis. No. 79-2. Washington, D.C.: American Enterprise Institute.
- Baldwin, Robert E. 1995. "An Economic Evaluation of the Uruguay Round Agreements." In S. Arndt and C. Milner (eds.). *The World Economy: Global Trade Policy 1995*. Blackwell Publications, 155-172.
- Baldwin, Robert E. 2009. "The Botched Doha Round Negotiations on a Special Safeguards Mechanism." <http://VoxEU.org>, March 11, 2009.
- Bagwell, Kyle and Robert Staiger 1999. "An Economic Theory of GATT," *American Economic Review* 80: 2155-248.
- Blustein, Paul. 2008. "The Nine-Day Misadventure of the Most Favored Nations: How the WTO's Doha Round Negotiations Went Awry in July 2008," *Brookings Global Economy and Development*. Washington, D.C.: The Brookings Institution.
- Diebold, William, Jr. 1952. *The End of the I.T.O.* Essays in International Finance, No. 16. International Finance Section. Princeton, N.J. Princeton University.
- Lavergne, Real P. *The Political Economy of U.S. Tariffs*. University of Toronto, Ph.D. Thesis.
- I, M. Destler. 2005. *Americn Trade Politics*, Fourth edition. Washington, D.C.: Institute for International Economics.

Irwin, Douglas. 1998. "Changes in U.S. Tariffs: The Role of Import Prices and Commercial Policies." *American Economic Review* 88: 1015-1026.

Preeg, Ernest H. 1970. *Traders and Diplomats: An analysis of the Kennedy Round of negotiations under the General Agreement on Tariffs and Trade*. Washington, D.C.: The Brookings Institution.

Preeg, Ernest H. 1995. *Traders in a Brave New World: The Uruguay Round and the Future of the International Trading System*. Chicago: University of Chicago Press.

U.S. Congress. House Committee on Ways and Means, prepared by the staff of the U.S. Tariff Commission. 1973. *Comparisons of ratios of imports to apparent consumption, 1968-72*. Washington, D.C.: GPO.

Winham, Gilbert R. 1986. *International Trade and the Tokyo Round Negotiation*. Princeton: Princeton University Press.

Woolley, John T. and Gerhard Peters,. *The American Presidency Project* [online]. Santa Barbara, CA: University of California (hosted), Gerhard Peters (database). Available from World Wide Web: <http://www.presidency.ucsb.edu/ws/?pid=1659>.